



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76108; File No. SR-OCC-2015-015]

October 8, 2015

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Concerning the Requirement for Clearing Members to Participate in Operation Testing

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder² notice is hereby given that on October 2, 2015, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC codifies the requirement for clearing members to participate in operational testing, including testing of OCC’s business continuity and disaster recovery plans (“BCP Testing”).

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposed rule change would codify OCC's current requirement for clearing members to participate in operational testing, including testing of OCC's BCP Testing. Article V of OCC's By-Laws sets forth OCC's initial membership requirements. Pursuant to Interpretation and Policy .02(b) of Article V, Section 1 of OCC's By-Laws, an applicant for clearing membership must demonstrate that it is operationally capable of: (i) processing expected volumes and values of transactions cleared by the clearing member within required time frames, including at peak times and on peak days; (ii) fulfilling collateral, payment, and delivery obligations as required by OCC; and (iii) participating in applicable default management activities, as may be required by OCC and in accordance with applicable laws and regulations.³

Once a firm becomes a member of OCC, Chapter II of OCC's Rules sets forth additional operational requirements. In particular, OCC Rule 214(d) requires clearing members to maintain their operational capabilities as a continuing obligation of membership.⁴ In accordance with such requirements, OCC annually conducts BCP Testing with certain clearing members through

³ See OCC's By-Laws, Article V, Section 1, Interpretation and Policy .02(b).

⁴ See OCC Rule 214(d). OCC Rule 214(d) requires clearing members to maintain their ability to, among other things: (i) process expected volumes and values of transactions cleared by the clearing member within required time frames, including at peak times and on peak days; (ii) fulfill collateral, payment, and delivery obligations as required by OCC; and (iii) participate in applicable default management activities, as may be required by OCC and in accordance with applicable laws and regulations.

coordinated testing. Recently, the Commission promulgated Regulation System Compliance and Integrity (“Reg. SCI”), which would require OCC to establish standards to designate members⁵ and require participation by such designated members in scheduled BCP Testing with OCC on an annual basis.⁶ OCC is proposing to adopt Rule 218 so that OCC’s Rules clearly articulate OCC’s requirement with respect to BCP Testing.

Proposed Rule 218 would increase transparency regarding and ensure OCC’s practice with respect to BCP Testing is consistent with Reg. SCI by articulating OCC’s right to: (i) designate clearing members required to participate in BCP Testing; (ii) determine the scope of such BCP Testing; and (iii) require clearing members to comply with the subject BCP Testing within specified timeframes. In connection therewith, OCC is planning to refine the criteria that it currently uses to designate firms for BCP Testing. For example, while OCC will continue to rely on volume thresholds to mandate participation in annual BCP Testing, OCC will also take into account additional factors when designating firms for BCP Testing, including but not limited to: (i) the nature of interconnectedness based on a firm’s approved business activities; (ii) the existence of significant operational issues during the past twelve months, and (iii) past performance with respect to BCP Testing. Clearing members will be informed of the specific standards that will be used by OCC, along with any updates or changes to these standards, through established methods of communication between OCC and its firms. Likewise, clearing

⁵ 17 CFR 242.1004(a). In adopting Reg. SCI, the Commission determined not to require covered entities to notify the Commission of its designations or the standards that will be used in designating its members, recognizing instead that each entity’s standards, designations, and updates, if applicable, would be part of its records and, therefore, available to the Commission and its staff upon request. *See* 79 FR 72350.

⁶ 17 CFR 242.1004(a) and (b).

members will be notified in advance that they've been designated to participate in BCP Testing for the upcoming year, and will be provided details concerning the nature of such testing as the particular test plans are determined.

OCC believes the proposed rule would have no impact on OCC clearing members relative to what clearing members are currently required to do. As described above, OCC already requires certain clearing members to participate in BCP Testing on an annual basis. The proposed rule codifies OCC's practice and provides further clarity and transparency to OCC clearing members to ensure consistency with Reg. SCI.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with applicable provisions of the Securities and Exchange Act ("Act") and regulations promulgated thereunder. OCC believes providing further transparency regarding the requirement for clearing members to take part in its BCP Testing annually will help avoid ambiguity regarding such requirements, and will further ensure that business continuity and disaster recovery plans between OCC and its clearing members function as intended during an emergency. As such, OCC believes the proposed rule change would facilitate the prompt and accurate clearance and settlement of securities transactions and protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act⁷, and foster the objectives of the Commission under Reg. SCI by helping to ensure resilient and available markets.⁸

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 17 CFR 242.1004(a) and (b).

Codifying OCC's current practice of requiring clearing members to engage in BCP Testing annually is also consistent with Rule 17Ad-22(d)(1), requiring that OCC provide for a well-founded, transparent, and enforceable legal framework for each aspect of its activities in all relevant jurisdictions, as it makes this obligation transparent.⁹ Finally, the proposed rule change is not inconsistent with any rules of OCC, including those proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.¹⁰ OCC believes the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because the proposed rule change would apply to all clearing members.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors and the public interest;
- (ii) Impose an significant burden on competition; and

⁹ 17 CFR 240.17Ad-22(d)(1).

¹⁰ 15 U.S.C. 78-q1(b)(3)(I).

- (iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

At any time within 60 days of the filing of this rule change, the Commission summarily may temporarily suspend the change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2015-015 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2015-015. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the

proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street, N.E., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at

http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_15_015.pdf

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-OCC-2015-015 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission by the Division of Trading and Markets, pursuant to delegated Authority.¹¹

Robert W. Errett,
Deputy Secretary.

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¹¹ 17 CFR 200.30-3(a)(12).